In the last and final article we focus on the critical role of the lower judiciary in ensuring effective implementation of PWDVA. I divide my analysis in two parts, "Technical knowledge, understanding and functioning" and "Personal ideology"[1] and argue that the two are intimately connected.

Technical knowledge, understanding and functioning[2]

Here, I am interested in examining gaps in judiciary's understanding and knowledge of the law. There is need for some of the lower judiciary to really digest the objects and reasons behind the PWDVA, which is actually stated in the preamble itself as providing **more effective protection** to women survivors of violence of any kind within the family in line with their constitutionally guaranteed rights to live with dignity, without gender based discrimination and violence.

Emergency and Interim Relief

The law recognizes the need for emergency response and relief, therefore providing for ex-parte and interim orders, which give survivors the protection (protection from violence and threats), Residence orders (somewhere to live or continue to live in the shared-household), and maintenance orders, which give the woman some income to maintain herself and family whilst the court proceedings are continuing.

The data collected by LCWRI[3] shows that in most states judiciary are making interim orders in only around 15% of the cases-this is very significant, because the failure to make interim orders effectively denies women key remedies of maintenance, protection and possibly the security of housing to continue with the complaint till the final order, which may take months or years. Survivors are therefore coerced to either withdraw , agree separation on terms that are often far worse than what they would get in a final order, or effect reconciliation simple to have a roof over their head, or to have the money to send their children to school.

This needs to be addressed urgently as in my experience in the vast majority of cases there is a need for a maintenance and protection order by the survivor in the interim especially given the failure of the lower courts to completed proceedings within the 60 days stipulated by the Act. In Gujarat, the average time for domestic violence proceedings is anywhere

[1] This article draws insights and information from my experience of working and researching in the Justice sector for around 10 years and from the detailed analysis and evaluation of court orders conducted by LCWRI in its 2013 report.

[3] Analysis of 9,526 orders from 22,255 orders collected from 27 states and union territories is an achievement that LWC must be congratulated for, because in absence of this time-consuming and no doubt mindboggling exercise, all of us working to assist survivors with effective use of the act could only site as evidence our own handful of cases, as opposed to a statistical trend that can be revealed by analysis of the results. As expected, many things are vastly different across different states, but this research helps us to address the particular problems state wise.

around 1-2 years, but there are cases continuing beyond 2, and exceptionally 3 years, which defeats the intention of providing quick remedy to women.

One stop clearance

Another important aim of PWDVA was to provide women the option of securing all the important immediate relief required in context of violence and family breakdown in one court, rather than have to approach different courts for different reliefs as they had to previously. Apart from providing all major relief required by women, such as maintenance, protection, residence and custody orders in one legislation, PWDVA also provides under section 26 that women can seek all these remedies in any CIVIL or CRIMINAL proceedings, essentially in practice this are likely to be used by women in Section 498A of IPC (which constitutes the largest criminal offence instituted by women as per NCRB data 2013 and 2015) or in context of section 125 of IPC or in any civil family proceedings in the family court for divorce, child custody etc. This intention of making the lives of survivor's easier runs against the interest of private lawyers who can charge more for filing several cases as oppose to filing just one case which best matches the needs of the survivor and availing all required remedies by use of section 26. There is also marked unawareness of the existence of section 26 and resistance to its use by Judges (with the exception of Mumbai and Delhi) who feel that they are already overburdened by their existing workload and PWDVA remedies and applications should be limited to courts specially designated to deal with that, magistrates courts in most states.

There are various other technical issues picked-up by PWDVA evaluation in the early years showing that the judiciary were not fully aware of the role of certain stakeholders such as Police /protection officers in enforcement of court orders, or that they were not sure whether daughters or mothers could avail remedies under the Act, or they may not be aware that PWVDA allows protection to women with temporary jurisdiction in a particular city, so if a woman has to move to Delhi from Calcutta to escape violence and support herself, she can apply. However, I feel with increasing use of the law, these small technical pieces of information will be picked-up by the lower judiciary, what is much more difficult to change is their patriarchal ideology and beliefs and in context of judicial functioning, the personal views and thoughts of Judges has a decided impact on the adjudication, because there are many spaces for exercise of judicial discretion and of course there is judicial interpretation.

Personal Ideology, bias or prejudice of lower judiciary

Despite the comprehensive definition of violence in PWDVA as encompassing economic, sexual, physical and mental abuse analysis of orders revealed that most orders were connected to dowry-related violence, and alcohol related violence.

Despite the remedies of PWDVA being available to any woman in a domestic relationship in a shared household and despite the law recognizing live-in relationships, the vast majority of orders were in favour of married women.

Despite the law allowing judges great discretion as to procedure adapted to ensure protection of women, the experiences of survivors continues to be one which is largely of being harassed by having to attend endless court hearings and huge delays in concluding the simplest of cases.

In a nutshell, the attitudes and perceptions of Judiciary towards gender equality and domestic violence are bound to impact on their adjudication. So, it is indeed worrying that many judges did not acknowledge that presence of sexual violence within marriage would come within the definition of domestic violence as defined in the act. A substantial proportion of Magistrates continue to believe that welfare of the family should come before the rights of the women. Many magistrates did not disagree with idea that a women sometimes needed to be disciplined by their husbands"

Experience and analysis of feminist's researchers, activists and lawyers argue that the most important and most difficult correction required to implement legislations which challenge women's subordination and domination is regarding the biases of those responsible for adjudication and implementation of the gender sensitive machinery and legislation. I wholeheartedly agree with Senior advocate, former ASG, Ms Jaising's conclusion, drawn from her life-long battle with patriarchy within and outside the legal fraternity. She captures the difficulty the feminist movement has encountered time and time again in trying to transform society by means of progressive laws which are effectively blocked by the institutionalized patriarchy running through the blood vessels of the Justice system.

"Yet this Report[4] is telling us that judges have not quite understood this message. The reasons for grant and denial of relief under the Act are telling. They paint the picture of the search for a perfect victim, one worthy of relief. Only married women, helpless women, deserted women, abandoned women, are entitled to relief on "moral" grounds. "